

Message Text

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ACTION EB-07

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E.O. 11652: N/A
TAGS: EAIR, KE
SUBJECT: CIVAIR: PAN AM CHARTERS

REF: (A) STATE 119738 (NOTAL), (B) STATE 18225

1. SUMMARY: EMB CONFIRMS PAN AM REPORT THAT NO-OBJECTION FEES BEING REQUESTED BY KENYAN NATIONAL CARRIER TO APPROVE CHARTER LICENSES FOR COMPETING FOREIGN AIRLINES. RESPONSIBILITIES FORMALLY ASSUMED BY REGIONAL CIVIL AVIATION BODY NOW BEING EXERCISED INDEPENDENTLY BY KENYAN MINISTRY OF POWER AND COMMUNICATIONS, YET WITH NO LEGISLATIVE AUTHORITY OR EVEN CLEAR POLICY STATEMENTS. INDIVIDUAL FOREIGN AIRLINES HAVE BEEN ASKED TO NEGOTIATE MUTUALLY ACCEPTABLE TRAFFIC RIGHTS WITH KENYA AIRWAYS AND ITS SUBSIDIARY FLAMINGO AIRWAYS. END SUMMARY.

2. EMB DISCUSSED PAN AM'S EXPERIENCE WITH FLAMINGO AIRWAYS WITH OFFICER IN CHARGE OF NAIROBI PAN AM OFFICE AND, AFTER RECEIPT OF REFTTEL, INTRODUCED SUBJECT DURING APPOINTMENT WITH TREASURY UNDER SECRETARY INVOLVED IN KENYA AIRWAYS' FINANCIAL AFFAIRS.

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3. AS DESCRIBED BY PAN AM OFFICER, CURRENT PROCEDURE FOR OBTAINING LICENSE TO OPERATE NON-SCHEDULED COMMERCIAL FLIGHTS IS TO SUBMIT APPLICATION TO MINISTRY OF POWER AND COMMUNICATIONS, WHICH REFERS PETITION IN TURN TO FLAMINGO AIRWAYS FOR LETTER OF NO OBJECTION. FLAMINGO AIRWAYS IS KENYA AIRWAYS SUBSIDIARY HANDLING PASSENGER AND CARGO CHARTERS.) AIRLINE REPS ARE THEN ASKED BY FLAMINGO MANAGE-

MENT TO DISCUSS AN APPROPRIATE FEE FOR THIS SERVICE,
PAYABLE TO FLAMINGO. UPON RECEIPT OF FLAMINGO LETTER,
MINISTRY ISSUES LICENSE.

4. EMB PARTICULARLY DISTURBED BY PAN AM'S REPORT THAT FLAMINGO
UNABLE TO PROVIDE SPECIFIC CHARTER POLICY OR ANY WRITTEN
GUIDANCE ON LICENSING RATES. INDIVIDUAL CHARTER OPERATORS
ARE INVITED TO "NEGOTIATE" ORALLY WITH FLAMINGO STAFF--
A SITUATION IN WHICH PAN AM REP WAS REPORTEDLY ASKED TO
"NAME A FIGURE" AS BASIS FOR FURTHER DISCUSSION ON FEES.
NEGOTIATIONS MUST BE UNDERTAKEN FOR EACH CHARTER FLIGHT,
PRESUMABLY PERMITTING FLAMINGO TO REASSESS FEES.

5. PAN AM'S AGENT STATED THAT HIS SURVEY OF LOCAL AIRLINE
OFFICES SUCH AS BRITISH AIRWAYS, LUFTHANSA, BRITISH CALEDONIAN,
REVEALED THAT ALL ARE EITHER ENGAGED OR HAVE COMPLETED
TALKS WITH FLAMINGO OVER NEW CHARTER RULES. COMPETITION IN
AIR TRAFFIC TO EAST AFRICA IS STIFF, SO OPERATORS ARE
RELUCTANT TO EXCHANGE INFORMATION ON RESPECTIVE "AGREEMENTS."
NEVERTHELESS, ACCORDING TO PAN AM, BRITISH AIRWAYS
ALREADY AGREED TO 20 PERCENT "GATEWAY" FEE FOR FLIGHTS
TO AND FROM JOHANNESBURG. EMBOFF SPOKE WITH OFFICER OF
NEWLY-ESTABLISHED U.S. CARGO CARRIER IN NAIROBI, CONTINENTAL
INTERNATIONAL AIRLINES, WHO SAID HIS COMPANY NOW IN PROCESS
OF FLAMINGO TALKS AND CONFIRMED THAT UNUSUALLY HIGH FEES
BEING REQUESTED. INITIAL FIGURE INTRODUCED BY FLAMINGO
WAS ABOUT 25 PERCENT OF GROSS CHARTER REVENUES.

6. PAN AM OFFICER INTENDS TO BRING UP PROBLEM IN BOARD OF
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AIRLINE REPRESENTATIVES MEETING SCHEDULED FOR MAY 31.
THIS INFORMAL ASSOCIATION OF LOCAL AIRLINE PERSONNEL MAY,
HE FELT, BE ABLE TO EXERT SOME PRESSURE ON GOK AND KENYA
AIRWAYS. PAN AM ALSO IN CONSULTATION WITH NAIROBI ATTORNEYS.
PAN AM'S CONCERN, HOWEVER, IS THAT LARGER AIRLINE WITH
HIGHER FREQUENCIES SUCH AS BRITISH AIRWAYS AND LUFTHANSA
MAY REACH PRECEDENTIAL ACCOMMODATION WITH FLAMINGO ON TERMS
UNECONOMICAL FOR CARRIERS WITH SMALLER LOCAL OPERATIONS.

7. TREASURY OFFICIAL ADMITTED THAT FLAMINGO MANAGEMENT STILL
PREPARING NEW GUIDELINES FOR COMMERCIAL AIR TRAFFIC. MINISTRY
OF POWER AND COMMUNICATIONS WILL BE SEAT OF NEW KENYAN
CIVIL AVIATION BOARD, VIRTUALLY REPLACING AUTHORITY OF
EAST AFRICAN CIVIL AVIATION BOARD IN ARUSHA, TANZANIA.
KENYAN BODY WILL THEN BE IN POSITION TO EXERCISE LICENSING
RESPONSIBILITIES MORE FORMALLY; HOWEVER, IN MEANTIME
FOREIGN CARRIERS MUST WORK OUT MODUS VIVENDI WITH KENYAN
AIRWAYS. WE CANNOT ESTIMATE WHEN KENYA CAB WILL BE
FUNCTIONING OR WHEN NEW INTERNATIONAL AIR TRAFFIC

REGULATIONS WILL BE GAZETTED.

8. ACCORDING TO TREASURY OFFICER, KENYA AIRWAYS/FLAMINGO NOW INVITING REPRESENTATIVES OF INDIVIDUAL INTERNATIONAL CARRIERS TO DISCUSS MUTUALLY SATISFACTORY TRAFFIC AGREEMENTS. WHEN COMPLETED, THESE AGREEMENTS WILL BE TURNED OVER TO GOK (PROBABLY MINISTRY OF FOREIGN AFFAIRS) AS BASIS FOR INITIATION OF FORMAL BILATERAL AVIATION AGREEMENTS. HE SUGGESTED THAT, IF PAN AM IN HURRY TO DEVELOP TRAFFIC CONTRACT, IT SUBMIT REQUEST TO CHIEF EXECUTIVE OF KENYA AIRWAYS FOR EARLY AIRLINE NEGOTIATIONS.

9. COMMENT: EMB BELIEVES GOK SERIOUSLY ATTEMPTING TO ORGANIZE RESPONSIBLE CIVIL AVIATION AUTHORITY AND ESTABLISH MORE DEFINITE AIR TRAFFIC POLICIES BUT EXPECTS NO IMMEDIATE RESULTS. FLAMINGO'S APPARENT EAGERNESS TO EXTRACT HIGH FEES ON CHARTER FLIGHTS HAS BEEN INTERPRETED BY SOME AS LIMITED OFFICIAL USE

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AN ANXIOUS DESIRE TO PROVE ITS REVENUE-EARNING CAPACITY TO GOK. LATTER REPORTEDLY AGREED TO CAPITALIZE NATIONAL AIRLINE WITH UNDERSTANDING THAT ENTERPRISE WOULD SOON BE SELF-SUPPORTING. EMBOFF EXPRESSED PARTICULAR CONCERN TO LOCAL PAN AM MANAGEMENT THAT THEY INSIST ON WRITTEN CONFIRMATION OF ALL AGREEMENTS WITH FLAMINGO--BOTH TO PROTECT AIRLINE STAFF FROM CHARGES OF MAKING ILLICIT PAYMENTS AND TO SECURE ENFORCEABLE GUARANTEES OF TRAFFIC RIGHTS.

10. EMB UNDERSTANDS PAN AM STUDYING POSSIBILITY OF SENDING NEGOTIATING TEAM FROM CORPORATE HEADQUARTERS TO SUPPORT LOCAL PERSONNEL IN DISCUSSIONS WITH FLAMINGO. IN ACCORDANCE WITH PREVIOUS DEPT INSTRUCTIONS NOT TO RAISE BILATERALS ISSUE WITH KENYAN GOVERNMENT, EMB DID NOT PURSUE SUBJECT OF FORMAL TRAFFIC RIGHTS AGREEMENT WITH TREASURY OFFICER. IT APPEARS, THOUGH, THAT PAN AM WILL EVENTUALLY REQUIRE SOME OFFICIAL USG-GOK AGREEMENT TO BACK UP WHATEVER UNDERSTANDINGS ARE REACHED WITH KENYA AIRWAYS/FLAMINGO. IN FACT, WE WONDER WHETHER GOVERNMENT AVIATION BILATERAL SHOULD NOT MORE APPROPRIATELY PRECEDE ANY COMMERCIAL AIRLINE DISCUSSIONS.

DECON 5/27/78
LINDSTROM

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